

REMARKS

Claims 228-235, 244-271 and 274-281 are pending in this application.

The courtesies extended to Applicants' representative by Examiner Beisner at the interview held March 12, 2009, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below, which constitute Applicants' record of the interview.

I. The Claims Define Patentable Subject Matter

Claims 228, 230-233, 235 and 274-278 are rejected under 35 U.S.C. §103(a) over European Patent No. 0 376 763 to McKelvey et al. (hereinafter "McKelvey"); claims 229 and 234 are rejected under 35 U.S.C. §103(a) over McKelvey in view of WO 96/29865 to Fahy et al. (hereinafter "Fahy II"); claims 244, 246-253, 255, 256, 258-263, 265 and 276-279 are rejected under 35 U.S.C. §103(a) over McKelvey in view of U.S. Patent No. 5,586,438 (hereinafter "Fahy") and U.S. Patent No. 6,238,908 to Armstrong et al. (hereinafter "Armstrong"); claims 245 and 257 are rejected under 35 U.S.C. §103(a) over McKelvey in view of Fahy, Armstrong and Fahy II; claims 254 and 271 are rejected under 35 U.S.C. §103(a) over McKelvey in view of Fahy, Armstrong and U.S. Patent No. 5,451,524 to Coble et al. (hereinafter "Coble"); and claims 264, 266-270, 280 and 281 are rejected under 35 U.S.C. §103(a) over McKelvey in view of Fahy, Armstrong and U.S. Patent No. 6,300,875 to Schafer. The rejections are respectfully traversed.

As tentatively agreed during the personal interview, McKelvey does not teach nor would it have rendered obvious an organ perfusion apparatus and a transporter that are adapted to receive the portable housing, the transporter being a portable organ perfusion apparatus, wherein the organ perfusion apparatus and the transporter are separate units, as recited in independent claim 228; and placing the portable housing containing the organ in an

organ perfusion apparatus and a transporter, and transporting the organ in said portable housing in said transporter without removal of the organ from the portable housing, the transporter being a portable organ perfusion apparatus, wherein the organ perfusion apparatus and the transporter are separate units, as recited independent claim 233.

The Office Action, on page 11, asserts that one of ordinary skill in the art when reading col. 6, lines 14-19 of McKelvey

would have clearly recognized that the reference of McKelvey contemplates using the portable housing (31) with a transportation device, such as a cabinet (30), and an additional base unit or a larger non-portable device. As stated in the rejection, in view of this specific disclosure, one of ordinary skill in the art would have been motivated to provide a larger non-portable device in addition to the transportation device (30). For these reasons, the Examiner is of the position that the reference of McKelvey et al. provides the suggestion and/or motivation required by Applicants and 35 USC 103. Note, one of ordinary skill in the art would also readily recognize that the contemplated 'portable hand-carried device' would be a perfusion device. If not, a portable hand-carried device would not be required to transport portable housing (31). One would just transport the housing alone if perfusion were not required.

These assertions are respectfully traversed.

As discussed during the personal interview, McKelvey does not teach that the portable hand-carried device is a portable organ perfusion apparatus nor does McKelvey teach that the cabinet 30 is a portable hand-carried device. There is no disclosure in McKelvey regarding the structure of the portable hand-carried device. The Office Action asserts that if the portable hand-carried device is not a perfusion device, a portable hand-carried device would not be required to transport the unit 31. However, McKelvey discloses that the unit 31 is open on one side to allow access to, and manipulation of, the components contained within the unit. See, McKelvey, col. 5, lines 43-52. Thus, the portable hand-carried device could be any device, such as a cooler, that would protect the components contained within the unit that are exposed on that one side.

Further, McKelvey discloses that the organ can be transported without being perfused. The unit 31 requires the components of the cabinet 30 to perform perfusion. See, McKelvey, col. 5, lines 29-42 and Figure 3. However, McKelvey discloses that the unit 31 is intended to be removable from the cabinet 30 so that the bulk of the device contained within the cabinet 30 can be put aside and that the more easily handled unit 31 can be taken to a location more proximate where the organ is to be excised. See, McKelvey, col. 5, lines 28-42 and col. 6, lines 1-13 and Figure 3. McKelvey also discloses that the organ reservoir holds the organ in a sterile state during cannulation and transport of the organ. See, McKelvey, Abstract. Specifically, McKelvey discloses that during transport, the heart is preferably submerged in a blood bath to prevent additional tissue damage and the sutures and tubes suspending the heart should be adjusted so that the heart is completely suspended in the blood bath. See, McKelvey, col. 8, lines 42-51. Therefore, there is no rational basis for concluding that one of ordinary skill in the art would have understood the portable hand-carried device to be a portable organ perfusion apparatus. For example, as discussed above, based on McKelvey's disclosure, one of ordinary skill in the art would have understood that the portable hand-carried device was a cooler.

Further, the cabinet 30 of McKelvey cannot reasonably correspond to a portable hand-carried device. As discussed above, the unit 31 of McKelvey is intended to be removable from the cabinet 30 so that the bulk of the device contained within the cabinet 30 can be put aside. See, McKelvey, col. 5, lines 28-42 and col. 6, lines 1-13 and Figure 3. Further, McKelvey discloses that "[t]he removable unit 31 also allows the transfer of an organ contained therein from one transportation device to another (e.g., where the organ is transferred from a portable hand-carried device to a larger non-portable device at the organ destination)." See, McKelvey, col. 6, lines 14-22. Accordingly, if the cabinet 30 is

considered to be a portable hand-carried device, or even a portable device, there would have been no reason to transfer the organ from one transportation device to another via the removable unit 31. Thus, the cabinet 30 cannot be reasonably considered to be a portable hand-carried device. Moreover, McKelvey does not disclose that the cabinet 30 is portable. Therefore, for at least these reasons, McKelvey does not disclose the transporter of claims 228 and 233.

Fahy I, Fahy II, Armstrong, Coble and Schafer are not applied in a manner to overcome the above-identified shortfalls in the application of McKelvey to the subject matter of the pending claims.

For at least the foregoing reasons, the applied references cannot reasonably be considered to teach, or render obvious, the combinations of all of the features positively recited in independent claims 228 and 233. Additionally, claims 229-232, 234, 235, 244-271 and 274-281 are also neither taught, nor would they have been rendered obvious, by the applied references for at least the respective dependence of these claims, directly or indirectly, on an allowable base claim, as well as for the separately patentable subject matter that each of these claims recites. Withdrawal of the rejections is thus respectfully requested.

II. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:

Petition For Extension of Time

Date: March 16, 2009

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